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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Christian Solidarity Worldwide, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Situation of Human Rights Defenders campaigning for Freedom of Religion or Belief

Christian Solidarity Worldwide (CSW) welcomes the continued efforts of the UN Special Rapporteur on the situation of human rights defenders, Mr Michel Forst, and urges the Council to ensure the Special Rapporteur is given adequate resources to carry out his mandate.

CSW recognises that the international community increasingly supports the critical role human rights organisations and HRDs play in promoting human rights around the world, but remains concerned by the multiple challenges they face, including de jure restrictions in the form of restrictive legislation, extensive bureaucratic hurdles, as well as harassment, intimidation, violence, murder and torture.

In particular, CSW seeks to draw the Council's attention to the situation of HRDs in Bangladesh, India and Pakistan who are campaigning for freedom of expression and freedom of religion or belief (FoRB). HRDs, journalists and lawyers who campaign for these rights are at particular risk and have been subject to increasing scrutiny and pressure from both state-actors and extremist groups in recent years. CSW also remains concerned about widespread impunity across the region and calls on the international community to protect HRDs from harassment and attacks and ensure perpetrators are brought to justice in accordance with the law.

Legal challenges faced by human rights defenders

While the Constitution of India protects FoRB as a fundamental right (Article 25), as well as rights to free speech and assembly (Article 19), HRDs advocating for FoRB in India have faced increased restrictions. The rise to power of the Bharatiya Janata Party (BJP) in 2014[1] - which is the political arm of the RSS, a Hindu nationalist organisation that espouses Hindutva – has threatened pluralism in India.

The Hindutva ideology espoused by the BJP encourages intolerance towards non-Hindus. In recent years, right wing rhetoric from politicians and other leaders seems to go unchecked and the space allowed by the state for civil society activity appears to be shrinking. These trends seem likely to continue to worsen, especially if steps are not taken to protect the rights of HRDs to ensure compliance with internationally recognized standards. One critical example is the use of the Foreign Contribution (Regulation) Act 2010 (FCRA)[2] by the Indian government to clamp down on foreign funding for Non-Governmental Organizations (NGOs). This has undermined the work of civil society and is in breach of Articles 5(c) and 13 of the United Nations Declaration on Human Rights Defenders.

The FCRA has been used to stifle the work of tens of thousands of NGOs and human rights activists. As of December 2016, the FCRA licenses of 20,000 NGOs, out of a total of 33,000 NGOs, were cancelled. 3

In 2016, three UN Special Rapporteurs jointly urged the government of India to repeal the FCRA law. The UN Special Rapporteur on human rights defenders, Michel Forst, the Special Rapporteur on freedom of expression, David Kaye, and Maina Kiai, the Special Rapporteur on freedom of association, said, "We are alarmed that FCRA provisions are being used more and more to silence organisations involved in advocating civil, political, economic, social, environmental or cultural priorities, which may differ from those backed by the government."4

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1 Christian Solidarity Worldwide, 'India: Key concerns relating to freedom of religion or belief', March 2017

2 FCRA Services, The Foreign Contribution (Regulation) Act, 2010 https://fcraonline.nic.in/home/PDF_Doc/FC-RegulationAct-2010-C.pdf

3 *The Indian Express*, 'FCRA licences of 20,000 NGOs cancelled', 27 December 2016 http://indianexpress.com/article/india/fcra-licences-of-20000-ngos-cancelled-4447423/

4 OHCHR news, 'UN rights experts urge India to repeal law restricting NGO's access to crucial foreign funding',16 June 2016, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20112&LangID=E

CSW urges the government of India to reform the FCRA and to introduce proper safeguards against arbitrary or politically-motivated curtailment of NGO funding.

In Bangladesh, political unrest has led to repeated cycles of violence in recent years which disproportionally affected religious minorities and secular activists. While a great tradition of civil society engagement has been established since the Liberation War of 1971, restrictive laws and government practice are narrowing the space for HRDs. Moreover, sections of Bangladesh's Information and Communication Technology (ICT) Act restrict HRDs' right to voice criticism and concern without fear of sanctions. 5 Other recent laws of concern include the 2014 Foreign Donations (Voluntary Activities) Regulation Act (FDRA), the 2015 Youth Organization (Registration and Operation) Act and the draft Digital Security Act6.

CSW calls on the government of Bangladesh to amend or repeal laws that restrict activities of HRDs within Bangladesh.

Challenges faced by bloggers and journalists campaigning for FoRB:

Numerous FoRB HRDs in India, including journalist and former President of the All India Catholic Union, John Dayal, have experienced harassment for campaigning for FoRB including hate speech, online trolling7 and threats to their lives. When John Dayal received threats online, the police did not intervene, a trend that has been experienced by several other human rights defenders across India.

Furthermore, scientists, academics, writers, actors and filmmakers in India have also been threatened in recent years and forced to self-censor. Many have joined the 'Award Wapsi' campaign and returned national awards they received earlier in their career as a mark of protest.8

There has also been a spate of attacks on 'rationalist' and secular activists and journalists since 2013 in India, resulting in the murders of Dr Narendra Dabholkar, Govind Pandharinath Pansare, MM Kalburgi and Gauri Lankesh. 9 These individuals had all spoken up against Hindutva (Hindu nationalist right wing ideology), the targeting of religious minorities and had campaigned for free speech.

In Bangladesh, in 2013, a 'hit list' which contained names of 84 bloggers was sent anonymously to newspapers across the country. The list comprised of bloggers who held atheistic views and challenged religious extremism through their writing. Since the publishing of the list, Islamist extremist groups have brutally murdered at least seven bloggers and publishers, including Rajib Haider, Avijit Roy, Washiqur Rahman, Ananta Bijoy Das, Niloy Chatterjee, Faisal Arefin Dipan, and Nazimuddin Samad. These murders, along with increased state surveillance and disappearances, have forced many journalists and human rights defenders into self-censorship. Police investigations on the murders have made little progress, supporting the culture of impunity that HRDs fear emboldens the perpetrators to carry out further targeted attacks.

5 Article 19, 'Bangladesh: Information Communication Technology Act', 10 May 2016 www.article19.org/resources/bangladesh-information-communication-technology-act/

6 The International Center for Not-for-Profit Law, 'Civic Freedom Monitor: Bangladesh', accessed 23 June 2017 http://www.icnl.org/research/monitor/bangladesh.html

7 Scroll.in, 'What the online attacks on my father say about India: activist John Dayal's daughter takes stock', September 14, 2015, https://scroll.in/article/755453/what-the-online-attacks-on-my-father-say-about-india-activist-john-dayals-daughter-takes-stock

8 *Hindustan Times*, 'And it continues: 24 more filmmakers, writers return awards', Nov 6 2015 http://www.hindustantimes.com/india/and-it-continues-kundan-shah-saeed-mirza-join-award-wapsi/story-t7guKRzkGv7ZrsTY6vOMZJ.html

9 UN News Centre, 'Following Lankesh's murder, UN rights experts urge Indian Government to protect free speech', 13 September 2017 http://www.un.org/apps/news/story.asp?NewsID=57510

CSW urges the international community to ensure that all HRDs, including journalists and those from religious minority groups, are protected and that offences are not treated with impunity.

Challenges faced by lawyers protecting the right to FoRB:

The situation for religious minorities in Pakistan has deteriorated over the years. Alongside the misuse of discriminatory legislation like the blasphemy laws and anti-Ahmadi legislation, incidences of communal violence have become increasingly prominent against religious minorities. These attacks are often treated with impunity by the state and police authorities. HRDs have faced an increase in attacks with constant threats from a variety of state and non-state actors including Islamist groups for defending those accused of blasphemy and being critical of the state and military.

Lawyers and judges working on blasphemy cases in Pakistan endure extreme pressure, as they are regularly intimidated by mobs – an act in breach of international law and Article 20 of Pakistan's constitution. Rashid Rehman, a Pakistani lawyer, was shot dead on 7 May 2014 for defending a university lecturer accused of blasphemy. HRDs report that it is becoming unacceptable for any defender to even call for the reform or repeal of the blasphemy laws.

Pakistani HRDs who speak out on human rights violations are subject to harassment, targeted attacks and enforced disappearance, with little protection provided by the government.

CSW urges the government of Pakistan to guarantee rule of law and protection for minorities using all appropriate measures, including conditions of fair trial and police protection for witnesses, judges and lawyers during court proceedings in blasphemy cases.

Recommendations to the Human Rights Council:

- To protect all HRDs, including journalists and those from religious minority groups from attack, and to ensure offences against HRDs are fully investigated, without exception.
- Ensure rule of law and protection for minorities is guaranteed using all appropriate measures, including conditions of fair trial and police protection for witnesses, judges and lawyers during court proceedings in blasphemy cases;
- To amend or repeal laws that restrict activities of HRDs, and introduce proper safeguards against arbitrary or politically-motivated curtailment of NGO funding.